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EXAMINER

REAGAN, JAMES A

ART UNIT

PAPER NUMBER

3621

DATE MAILED: 04/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/648,697

Applicant(s)

REDDING ET AL.

Examiner

James A. Reagan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2, 2
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### Status of Claims

1. This action is in response to the application filed on 25 August 2000.
2. Claims 1-19 have been examined.

### Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5 and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wyman (US 5,204,897) in view of Ohran et al (US 5,978,565), further in view of (Badovinatz et al. (US 5,704,032), and further in view of Applicant's own admission.

**Examiner's note:** Examiner has pointed out particular references contained in the prior art of record in the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the *entire* reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

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**Claims 1 and 11:**

With regard to the limitation of *at least one client computer coupled to the communication network for requesting authorizations to use the protected software*, Wyman discloses a license management system (abstract). With regard to the limitation of *a pool of license servers coupled to the communication network*, Ohran discloses backup computer servers (abstract). Wyman and Ohran do not specifically disclose *each license server programmed for managing a distribution of one or more allocations to use the protected software*. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Wyman and Ohran because, as the applicant has pointed out in the background of the specification, failure of the license server in a single-server system would result in the failure of the license management system as a whole. Therefore, having backup servers is efficient.

The combination of Wyman/Ohran does not specifically disclose *the pool of license servers including a current leader server programmed for maintaining a record of allocations for license servers in the pool*. However, Badovintz discloses designation a new leader in a group of processors when the current leader fails (abstract). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Wyman/Ohran and modify it with Badovintz because, as the applicant has pointed out in the background of the specification, if the primary server has gone down, then a back up server may communicate with the client machine to authorize the use of an application, thereby taking over license management function, thereby increasing efficiency.

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**Claims 2 and 12:**

With regard to the limitation of *the pool of license servers further including at least one follower server, each follower server programmed for managing the distribution of allocations for that particular follower server*, the rejections of claims 1 and 11 as shown above disclose license servers, back up servers, and leader and follower servers. Wyman, in Figure 1 and related text, shows servers storing license information in a local database and delegating authorizations through delegate servers (column 11, lines 12-16). Applicant, in the background of the specification discloses motivation to combine as shown above. Although the combination of Wyman/Ohran/Badovinatx does not specifically disclose that each follower server is programmed to manage allocations for that particular server, it is obvious that a back up server would contain all necessary information for managing its own share of licenses and would be able to retrieve data files from other servers to properly manage the license management functions of other secondary servers in the network.

**Claims 3 and 13:**

With regard to the limitation of *each license server further including memory for storing a status of the allocations for that particular license server*, the combination of Wyman/Ohran/Badovinatx inherently discloses memory and the obvious necessity for using the memory to store licensing information.

With regard to the limitation of *wherein each follower server is programmed for communicating the status of the allocations for that particular follower server to the current leader server*, Wyman discloses license servers as shown above, Badovinatx discloses leader and follower servers as shown above, and Ohran discloses back up

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servers and transferring data from one server to another in the case of a failure (abstract). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Wyman/Ohran/Badovinatx because, as the Applicant has pointed out in the background of the specification, if a primary sever cannot be reached by a user, a back up sever containing current licensing authorizations can communicate with the client machines and take over license management functions, thereby increasing the efficiency of the license management system.

**Claim 4:**

The combination of Wyman/Ohran/Badovinatx and Applicant's own admission discloses the limitations as shown above. Wyman/Ohran/Badovinatx/Applicant do not specifically disclose that *each follower server is programmed such that it is capable of becoming a new leader server if the current leader server can no longer manage the distribution of allocations for the license servers*. However, Badovinatx, in column 2, lines 1-6, discloses, "The group leader recovery mechanism of the present invention provides a flexible technique for determining a new group leader, when the current group leader fails." It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Wyman/Ohran/Badovinatx because, "It ensures that the members of the group are aware of the new group leader and can count on the group leader to control and manage the group (Badovinatx, column 2, lines 1-6)."

**Claims 5 and 14:**

The combination of Wyman/Ohran/Badovinatx/Applicant's own admission discloses the limitations as shown above. Wyman/Ohran/Badovinatx/Applicant do not specifically disclose *determining, by communications between the pool of license*

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*servers, when a particular license server can no longer manage a distribution of allocations to use the protected software.* Badovinatx, however, in Figure 5a and related text, discloses selecting anew group leader when a current server has failed, and informing other servers of the change in leadership. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Wyman/Ohran/Badovinatx because, "It ensures that the members of the group are aware of the new group leader and can count on the group leader to control and manage the group (Badovinatx, column 2, lines 1-6)."

5. Claims 6 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wyman/Ohran/Badovinatx/Applicant and further in view of Baratti et al. (GB 2,346,989).

**Claims 6 and 15:**

The combination of Wyman/Ohran/Badovinatx and Applicant's own admission discloses the limitations as shown above. Wyman/Ohran/Badovinatx/Applicant do not specifically disclose *the license servers are programmed for preventing the issuance of an authorization to use protected software unless a majority of license servers are functioning and capable of managing a distribution of allocations to use the protected software.* However, Baratti, in the abstract and related text, discloses. "For security, the license management system requires that at least the integer majority, M, of the plurality of license servers is active at any time..." It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Wyman/Ohran/Badovinatx/Applicant with Baratti because this prevents the unintended distribution of licenses.

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6. Claims 7-10 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wyman/Ohran/Badovinatze/Applicant and further in view of Bains et al. (US 5,579,222).

**Claims 7 and 16:**

The combination of Wyman/Ohran/Badovinatze/Applicant's own admission discloses the limitations as shown above. Wyman/Ohran/Badovinatze/Applicant do not specifically disclose:

- *each client computer that has received an authorization from a particular license server, and the particular license server that sent the authorization to the client computer, are programmed-for communicating heartbeats between each other; and*
- *wherein each client computer that has received an authorization from a particular license server is programmed for determining whether that particular license server is still capable of managing a distribution of allocations to use the protected software*

Bains, however, in column 7, lines 43-46, discloses using a ping to determine if a server is still functioning properly. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Wyman/Ohran/Badovinatze/Applicant with Bains because using a periodic signal to ensure that a license server is operating properly ensures that the usage rights associated with each license is not being fraudulently manipulated.

**Claims 8 and 17:**

With regard to the limitation of *locating a new leader server*, Badovinatze discloses designation a new leader in a group of processors when the current leader



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fails, as shown in the rejection of claims 1 and 11 above. With regard to the limitation of *communicating a heartbeat from the client computer to the new leader server*, Bains, column 7, lines 43-46, discloses using a ping to determine if a server is still functioning properly, as shown in the rejection of claims 7 and 16 above. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Wyman/Ohran/Badovinatzen/Applicant with Bains because if, after determining that local license sever is no longer functional, a new license server must be selected to replace the licensing capabilities, thus maintaining an efficient and seamless licensing provision.

**Claims 9 and 18:**

The combination of Wyman/Ohran/Badovinatzen/Applicant's own admission discloses the limitations as shown above. Wyman/Ohran/Badovinatzen/Applicant do not specifically disclose:

- *determining if the new leader server had already issued an authorization to the client computer; and*
- *converting the heartbeat to a request for an authorization if the new leader server had not already issued an authorization to the client computer.*

However, Bains, in column 8, line 60 to column 9, line 20, discloses a lost signal to the license sever, wherein a temporary license may be issued, or a new license may be requested. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Wyman/Ohran/Badovinatzen/Applicant with Bains because if, after determining that local license sever is no longer functional, a new license server

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must be selected to replace the licensing capabilities, and if a new request for a current license is warranted, thus maintaining an efficient and seamless licensing provision.

**Claims 10 and 19:**

The combination of Wyman/Ohran/Badovinatzen Applicant's own admission discloses the limitations as shown above. Wyman/Ohran/Badovinatzen Applicant do not specifically disclose:

- *if a particular license server is no longer capable of managing a distribution of allocations to use the protected software, the memory in the particular license server is capable of receiving a new redundant license file and a new sequence number; and*
- *if the particular license server is brought back on line and if the new sequence number is greater than any sequence number currently stored in the memory of the other license servers in the pool, the particular license server and the other license servers in the pool are programmed for transferring the new redundant license file to other license servers in the pool.*

However, Badovinatzen column 8, lines 1-44 discloses using sequence numbers to keep track of messages when a server fails or when a new leader server is selected. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Wyman/Ohran/Badovinatzen Applicant with Bains because if, after determining that local license sever is no longer functional, a new license server must be selected to replace the licensing capabilities there must be an assurance that the new server leader has a current list of license data.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to **James A. Reagan** whose telephone number is **(703) 306-9131**. The examiner can normally be reached on Monday-Friday, 9:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **James Trammell** can be reached at (703) 305-9768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **(703) 305-3900**.

Any response to this action should be mailed to:

***Commissioner of Patents and Trademarks***

**Washington, D.C. 20231**

or faxed to:


**(703) 305-7687** [Official communications; including

After Final communications labeled "Box AF"]

**(703) 308-1396** [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7<sup>th</sup> floor receptionist.

JAR  
04 April 2003

  
**JOHN W. HAYES**  
**PRIMARY EXAMINER**